REMARKS

By the above amendments, claims 1, 4, 11, 19, and 20 have been amended and claims 5, 12-14, and 18 cancelled. In view of these actions and the following remarks, further consideration of this application is respectfully requested.

Claims 1, 3-5, 7-15 and 17-26 stand rejected for indefiniteness under 35 U.S.C. §112, second paragraph. Claim 1 has been amended to remove the repetitive recitation, claim 11 has been amended to eliminate the dependencies from cancelled claims, claim 12 has been cancelled, and claims 19 and 20 revised to address the deficiencies cited by the Examiner. Thus, the claims should now be clear and definite and this rejection should be withdrawn as a result.

With regard to the provisional obviousness type double patenting rejection of claims 4, 5, 13, and 14 over claims 20, 21 and 24 of application No. 10/204,545, it is noted that claims 5, 13, and 14 have been cancelled and claim 4 amended to constitute prior claim 5. Furthermore, it is pointed out that application No. 10/204,545 does not claim having the acrylate foam of the carrier element form the second self-sticking adhesive surface, and there is nothing which is claimed that would render such obvious. In this regard, the Examiner has not even attempted to present *prima facie* case of obviousness relative former claim 5, which is now amended claim 4. Accordingly, it is submitted that there is not justification for retaining of an obviousness type double patenting rejection relative to any of the claims of application No. 10/204,545, so that withdrawal thereof is requested.

Claims 1, 3-5, 7-15, and 17-26 stand rejected under 35 USC § 103 as being unpatentable over the DE '399 German reference as translated in the Hahn et al. U.S. patent either by itself or in further combination with either the Wacker publication or the Japanese '441 reference. This rejection is considered inappropriate for the following reasons.

Firstly, the Examiner's position that it is belief that providing of a primer layer as claimed is " a parameter well within the ordinary skill of the art." However, as pointed out by the Board of Appeals:

> ...the examiner equautes that which is within the capabilities of one skilled in the art with obviousness. Such is not the law. There is nothing the the statutes or the case law which makes "that which is within the capabilities of one skilled in the art" synonymous with obviousness. *Ex parte Gerlach and Woerner,* 212 USPQ 471 (PTO Bd. of Ap. 1980)

Furthermore, as pointed out by the Federal Circuit, the mere fact that a modification could be made does not make it obvious absent a teaching of the desirability to do so; *In re Gordon*, 221 USPQ 1125 (1984). Thus, it is improper for the Examiner to basis a finding of obviousness on the mere fact that the use of primers in some circumstances is well know, when no reason or desirability for doing so with the particular materials in the particular location claimed in this application.

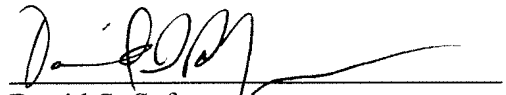
As for the Japanese '441 reference, it teaches use of a primer for a different type of material. There is nothing about the complex process taught in this Japanese reference for treating a low-density polyurethane foam tape by corona discharge and then applying a coating of a zirconium acetylacetoneate primate that has an relevance to the cross-linked of a silicone cement or the use of such a cement with an acrylate foam. No one of any skill in any art could attach any relevance to the Japanese '441 reference with regard to the present invention or the Hahn et al. reference.

As for the Wacker publication, while it discloses a known primer for silicone rubbers, in and of itself that does not suggest it use in the overall combination or the present invention. That is, even if such a primer where to be used with the silicone cement of Hahn et al., the Hahn et al. process would still result in the shortcomings noted on page 1 of the present application that is solved by the present invention as described in paragraph [0006] on page 2 which involves in part the cross-linking of the silicone cement, which is something neither Hahn et al nor Wacker teach to do for any purpose, let alone in the manner and for the purpose disclosed and claimed in this application.

Accordingly, the rejection under § 103 should be withdrawn and such is hereby requested.

In view of the foregoing, it is submitted that the present application is in condition for allowance and a notice to that effect is respectfully requested. However, if the Examiner deems that any issue remains after considering this response, he is invited to call the undersigned

Respectfully submitted,



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